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OFFICE OF PETITIONS

16C1 #7 MP
Petition Under 37 CFR § 1.53(e)

Attorney Docket No.: 62785.000002

Client Reference No.: P2197US-M/PWC/JSJ

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Richard Le Page, *et al.*

Application No.: 10/091,007

Filed: March 6, 2002

For: NUCLEIC ACIDS AND PROTEINS
FROM GROUP B STREPTOCOCCUS:

Group Art Unit: 1645

Examiner: S. Devi, Ph.D.

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Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

RENEWED PETITION UNDER 37 CFR § 1.53(e)

Sir:

Applicants respectfully petition the Honorable Commissioner to reinstate the original Filing Date of March 6, 2002, in the above-named application and issue an Updated Filing Receipt reflecting the correction.

As justification for this Petition, the attorney for the Applicants state the following facts:

1. The U.S. Patent and Trademark Office ("PTO") stamped a postcard on March 6, 2002 specifying that the patent application for "NUCLEIC ACIDS AND PROTEINS FROM GROUP B STREPTOCOCCUS" consisting of a Utility Patent Application Transmittal, sixty-eight (68) pages of specification including abstract and claims 1-24, 110 pages of formal drawings (Figures 1-16), an unexecuted Declaration and Power of Attorney, Information Disclosure Statement with six (6) references, a submission of sequence listing with computer

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Adjustment date: 08/19/2003 AKELLEY

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130.00 OP

-130.00 OP

Rep'n. Ref: 08/19/2003 AKELLEY 0014470300
Date: 08/19/2003 Name/Number: 10091007 \$130.00 CR
DAH: 500206
FC: 9204

readable copy and paper copy, and a statement verifying identity of sequence listing was received.

2. On April 22, 2002, the PTO mailed a “Notice to File Missing Parts of Nonprovisional Application” that stated the oath or declaration was unsigned, Figures 15 and 16 were omitted and a surcharge of \$65.00 was required when submitting the missing items. This Notice indicated that a Filing Date of March 6, 2002 had been granted.

3. Attorney for Applicants submitted a Petition under 37 CFR § 1.53(e) in response to the Notice. The Petition included the signed Declaration and Power of Attorney, Figures 15 and 16 with a copy of the Utility Patent Application Transmittal, the \$65.00 surcharge and a copy of the original date-stamped receipt postcard as proof of the PTO’s prior receipt of the Figures as specified in MPEP § 601.01(g).

4. A stamped postcard serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO. MPEP § 503. The original postcard stamped on March 6, 2002 acknowledges receipt of 110 pages of formal drawings. Figures 15 and 16 were pages 109 and 110 respectively.

5. While the Petition under 37 CFR § 1.53(e) included only a check for \$65.00 as the fee set forth in 37 CFR § 1.16(e), the Petition explicitly stated, “In the event any variance exists between the amount enclosed and the PTO charges, please charge or credit such fees to the undersigned’s Deposit Account No. [50-0206].” Thus, the PTO was authorized to charge the petition fee set forth in 37 CFR § 1.17(h) to our deposit account, if such fee was necessary.

6. The PTO stamped the Petition under 37 CFR § 1.53(e) as received on June 6, 2002, well within the two-month period allotted under 37 CFR § 1.181(f). (Copies of both

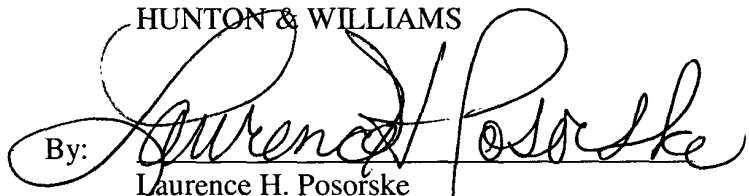
stamped postcards are attached to this submission as evidence of the items submitted on the respective filing dates.)

A check in the amount of \$130.00 as payment of the fee for this Petition, together with a copy of the initial petition and its supporting documents, are enclosed. Because no defect exists in the items originally filed, it is respectfully submitted that the petition fee should be refunded to Applicants. MPEP § 601.01(g). In the event Applicants are not required to pay the petition fee for the instant Petition, or in the event it is determined that there are additional fees necessary, please credit or debit, as appropriate, the undersigned's Deposit Account No. 50-0206.

Applicants respectfully submit that, in view of the above facts, the subject application is entitled to the filing date of March 6, 2002. Issuance of a Corrected Filing Receipt, showing the filing date of March 6, 2002, is respectfully requested.

Respectfully submitted,

HUNTON & WILLIAMS

By: 
Laurence H. Posorske
Registration No. 34,698

LHP:vs

Hunton & Williams LLP
1900 K Street, N.W.
Washington, D.C. 20006-1109
Telephone: (202) 955-1500
Facsimile: (202) 778-2201

Date: July 9, 2003